

## **APPENDIX A**

**GENERAL ORDER NO. 66-C**  
**(Supersedes General Order No. 66-B)**

**PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA**

**PROCEDURES FOR OBTAINING INFORMATION AND RECORDS IN THE  
POSSESSION OF THE COMMISSION AND ITS EMPLOYEES AND COMMISSION  
POLICY ORDERS THEREON.**

**Adopted June 5, 1974; Effective June 5, 1974.**  
**Resolution No. L-151.**

**Amended June 25, 1974; Effective June 25, 1974.**  
**Resolution No. DE 120.**

**Amended May 4, 1982; Effective May 4, 1982.**  
**Resolution No. L-224.**

**1. DEFINITIONS**

- (1.1) "Public records" of the Public Utilities Commission, includes all items encompassed in Section 6252 of the Government Code,<sup>1</sup> except as otherwise excluded by this General Order, statute, or other order, decision, or rule.
- (1.2) "Commission" means the Public Utilities Commission and the staff of the Public Utilities Commission.

**2. EXCLUSIONS**

Public records not open to public inspection include:

- (2.1) Records or information specifically precluded from disclosure by statute. (E.g.: accident reports, P.U. Code § 315)<sup>2</sup>
- (2.2) Records or information of a confidential nature furnished to,

<sup>1</sup> Gov't Code § 6252 (d) and (e):

"(d) 'Public records' includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

"(e) 'Writing' means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents."

<sup>2</sup> P.U. Code § 315:

"The commission shall investigate the cause of all accidents occurring within this State upon the property of any public utility or directly or indirectly arising from or connected with its maintenance or operation, resulting in loss of life or injury to person or property and requiring, in the judgment of the commission, investigation by it, and may make such order or recommendation with respect thereto as in its judgment seems just and reasonable. Neither the order or recommendation of the commission nor any accident report filed with the commission shall be admitted as evidence in any action for damages based on or arising out of such loss of life, or injury to person or property. Every public utility shall file with the commission, under such rules as the commission prescribes, a report of each accident so occurring of such kinds or classes as the commission from time to time designates."

or obtained by the Commission. (See P.U. Code §§ 583, 3709, 5228)<sup>3</sup>

Such records or information shall include, but not be limited to:

- a) Records of investigations and audits made by the Commission, except to the extent disclosed at a hearing or by formal Commission action.
- b) Reports, records, and information requested or required by the Commission which, if revealed, would place the regulated company at an unfair business disadvantage.
- c) Reports, records, and information provided to the Commission for compilation and use in connection with the Commission's Data Bank program.
- d) Records or information furnished to the Commission pursuant to the Highway Carriers' Uniform Business License Tax Act (P.U. Code §§ 4301, *et seq.*) and the Transportation Rate Fund (P.U. Code §§ 5001, *et seq.*).
- e) Reports pursuant to General Order No. 107-A, pertaining to privacy of telephone communications.
- (2.3) Intra-agency notes, drafts, memoranda and other communications not otherwise made public by the Commission.
- (2.4) Non-public communications with other public agencies or officers where the public interest in withholding such records clearly outweighs the public interest in disclosure.
- (2.5) Personnel records, other than present job classification, job specification and salary range.
- (2.6) Test questions, scoring keys and other examination data used to administer licensing examinations.
- (2.7) Records received from or furnished to the Governor or the Governor's office.
- (2.8) Information obtained in confidence from other than a business regulated by this Commission where the disclosure

<sup>3</sup> P.U. Code § 583:

"No information furnished to the commission by a public utility, except such matters as are specifically required to be open to public inspection by the provisions of this part, shall be open to public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding. Any officer or employee of the commission who divulges any such information is guilty of a misdemeanor."

P.U. Code § 3709:

"Any employee of the commission who divulges any fact or information which comes to his knowledge during the course of the examination of the accounts, records, and memoranda of highway carriers, except as he is authorized or directed by the commission or by a court of competent jurisdiction or judge thereof, is guilty of a misdemeanor and is punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment in the county jail for not more than three (3) months, or both."

P.U. Code § 5228:

"Any employee of the commission who divulges any fact or information which comes to his knowledge during the course of the examination of the accounts, records, and memoranda of household goods carriers, except as he is authorized or directed by the commission or by a court of competent jurisdiction or judge thereof, is guilty of a misdemeanor and is punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment in the county jail for not more than three (3) months, or both."

would be against the public interest. (E.g.: Evidence Code, § 1040) <sup>4</sup>

### 3. PROCEDURE FOR EXAMINING AND OBTAINING PUBLIC RECORDS

#### (3.1) INITIAL REQUESTS

Requests to examine and/or copy public records should be made to the Secretary of the Commission, who is the official Custodian of Records. Service of process for records should be made on the Secretary. Assistant Secretaries in the Los Angeles and San Francisco Offices of the Commission are authorized to receive requests and service of process for the Custodian of Records. Public records may be examined and copied and service of process may be made at the Commission's offices in San Francisco and Los Angeles during regular office hours.

#### (3.2) FEES FOR COPIES

Certified copies of public records may be obtained from the Secretary's office in San Francisco or the Assistant Secretary's office in Los Angeles. Fees for copies or certified copies are as set forth in Public Utilities Code § 1903.<sup>5</sup> Checks for payment should be made payable to the Public Utilities Commis-

<sup>4</sup> Evidence Code § 1040:

"(a) As used in this section, 'official information' means information acquired in confidence by a public employee in the course of his duty and not open, or officially disclosed, to the public prior to the time the claim of privilege is made.

"(b) A public entity has a privilege to refuse to disclose official information, and to prevent another from disclosing such information, if the privilege is claimed by a person authorized by the public entity to do so and:

"(1) Disclosure is forbidden by an act of Congress of the United States or a statute of this state; or

"(2) Disclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice; [but not privilege may be claimed under this paragraph if any person authorized to do so has consented that the information be disclosed in the proceeding.] In determining whether disclosure of the information is against the public interest, the interest of the public entity as a party in the outcome of the proceeding may not be considered." (Stats. 1965, c. 299, § 1040.)

<sup>5</sup> P.U. Code § 1903:

"The commission shall charge and collect the following fees:

(a) For copies of papers and records not required to be certified or otherwise authenticated by the commission (except transcripts of testimony, other evidence or proceedings prepared by or under the direction or supervision of the official reporters of the commission), twenty cents (\$0.20) for each folio.

(b) For certified copies of official documents and orders filed in its office, twenty-five cents (\$0.25) for each folio and one dollar (\$1) for every certificate under seal affixed thereto.

(c) For certifying a copy of any report made by a public utility, two dollars (\$2).

(d) For each certified copy of the annual report of the commission, one dollar and fifty cents (\$1.50).

(e) For certified copies of evidence and proceedings before the commission (except transcripts of testimony, other evidence or proceedings prepared by or under the direction or supervision of the official reporters of the commission), twenty-five cents (\$.25) for each folio.

The commission may establish and fix the charge to be made and collected by it for transcripts of testimony, other evidence and proceedings taken before the commission, where such transcripts are prepared by or under the direction or supervision of the official reporters of the commission."

sion of the State of California.

**(3.3) TIME TO REVIEW REQUEST**

Persons desiring to inspect, subpoena, or copy public records in the Commission's possession must allow sufficient time for the records to be assembled and reviewed for the purpose of determining if they are public records which fall within the exclusions listed in Section 2 above, or if there is some public interest served by withholding the records. This review will be made in the Commission's offices in San Francisco. Requests for Commission records must take into account the time necessary to have the file reviewed in San Francisco before it may be released.

**(3.4) APPEAL TO FULL COMMISSION**

A person wishing to review records which are not open to public inspection may write to the Secretary in San Francisco, indicating the records being withheld, and stating the reasons why these records should be disclosed to him. Sufficient time must be allowed for the full Commission to review this request and the applicable records.

**(3.5) HEARINGS OR PROCEEDINGS**

During the course of a hearing or proceeding before the Commission, the Commission, or a Commissioner or an Examiner may, for good cause shown, authorize or direct a Commission employee to produce or divulge information or public records not open to public inspection, or to make it available for inspection, or to furnish, and certify, if requested, a copy or copies thereof to the person making such request, or to testify with respect to the matter described in such request.

**4. COMMISSION POLICY**

**(4.1) ORIGINAL RECORDS:**

Availability of original records is necessary for the conduct of the Commission's duties. Evidence Code §§ 1560, *et seq.*, provide for the admissibility into evidence of true copies of records such as are maintained by the Commission. The personal appearance of the Custodian of Records is not required. A subpoena demanding original Commission records or personal appearance of the Custodian of Records is an unwarranted interference with the Commission in the performance of its official duties and will be resisted.<sup>6</sup>

**(4.2) EXPERT WITNESSES:**

It is not the duty of the Commission to provide its staff members to litigants as expert witnesses. The Commission does not have sufficient personnel to provide this service and perform its legitimate duties. Therefore, the Commission will resist subpoenas requiring Commission personnel to testify as experts.

Should a Commission employee be required by subpoena to attend a proceeding or deposition for the purpose of giving expert testimony, the minimum compensation for such attendance is hereby set at \$500 plus travel and per diem expenses for each day or part thereof that the Commission is deprived of his services. Checks for payment should be made payable to the Public Utilities Commission of the State of California.

<sup>6</sup> P.U. Code § 1750:

"No court of this State, except the Supreme Court to the extent specified in this article, shall have jurisdiction to review, reverse, correct, or annul any order or decision of the commission or to suspend or delay the execution or operation thereof, or to enjoin, restrain, or interfere with the commission in the performance of its official duties, except that the writ of mandamus shall lie from the Supreme Court to the commission in all proper cases."

Issued at San Francisco this 5th day of June, 1974.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

By William R. Johnson  
Secretary

## **APPENDIX B**

**Article 5. Reports**

(Article 5 enacted by Stats. 1951, Ch. 764.)

581. Every public utility shall furnish to the commission in such form and detail as the commission prescribes all tabulations, computations, and all other information required by it to carry into effect any of the provisions of this part, and shall make specific answers to all questions submitted by the commission.

Every public utility receiving from the commission any blanks with directions to fill them shall answer fully and correctly each question propounded therein, and if it is unable to answer any question, it shall give a good and sufficient reason for such failure.

(Enacted by Stats. 1951, Ch. 764.)

582. Whenever required by the commission, every public utility shall deliver to the commission copies of any or all maps, profiles, contracts, agreements, franchises, reports, books, accounts, papers, and records in its possession or in any way relating to its property or affecting its business, and also a complete inventory of all its property in such form as the commission may direct.

(Enacted by Stats. 1951, Ch. 764.)

583. No information furnished to the commission by a public utility, or any business which is a subsidiary or affiliate of a public utility, or a corporation which holds a controlling interest in a public utility, except those matters specifically required to be open to public inspection by this part, shall be open to public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding. Any present or former officer or employee of the commission who divulges any such information is guilty of a misdemeanor.

(Amended by Stats. 1986, Ch. 814, Sec. 1.)

584. Every public utility shall furnish such reports to the commission at such time and in such form as the commission may require in which the utility shall specifically answer all questions propounded by the commission. The commission may require any public utility to file monthly reports of earnings and expenses, and to file periodical or special reports, or both, concerning any matter about which the commission is authorized by any law to inquire or to keep itself informed, or which it is required to enforce. All reports shall be under oath when required by the commission.

(Amended by Stats. 1978, Ch. 278.)

585. (a) Except as provided in subdivision (d), every public utility and business specified in subdivision (b) shall in any rate proceeding or proceeding establishing a fact or rule that may influence a rate, provide the commission with access to all computer models, as defined in Section 1821, which are used by that public utility or business to substantiate their showing in the proceeding.

(b) The commission shall, by rule or order, with full opportunity for participation by utilities and other affected parties, establish procedures



## **APPENDIX C**

## Notes of Decisions

Investigations 2  
Validity 1

## 1. Validity

Since proceedings under § 11180 et seq. relating to investigations by heads of government departments do not relate to judicial proceedings but to statutorily permitted investigations, the proceedings are not constitutionally invalid because they fail to follow C.C.P. §§ 1985, 2035, which apply to proceedings of judicial nature. *Fielder v. Berkeley Properties Co.* (1972) 99 Cal.Rptr. 791, 23 C.A.3d 30.

## 2. Investigations

California attorney general's investigation into possible antitrust violations affecting California in marketing of natural gas originating in Alaska had both interstate and intra-California aspects, and thus while conducting investigation attorney general properly may be concerned not only with possibilities of prosecution in California courts but also with formulations of enforcement policy in cooperation with federal authorities and with recommenda-

tions for remedial administrative rulings and legislation, as this section, which empowers attorney general to investigate any subject under his department's jurisdiction, surely empowered attorney general to gather information that was "not plainly incompetent or irrelevant to" those purposes. *Younger v. Jensen* (1980) 161 Cal.Rptr. 905, 605 P.2d 813, 26 C.3d 397.

Gen. Laws Supp.1939, Act 8780d, lodging with employment commission duty to administer Unemployment Insurance Act, and specifically imposing upon commission duty to do all things reasonably necessary to enforce provisions thereof including power to issue process to compel attendance of witnesses and production of records, necessarily implied investigatory powers. *Hill v. Brisbane* (1944) 151 P.2d 578, 66 C.A.2d 15.

Under this section and § 11181, director of state department of social welfare has authority to investigate and hold hearings to determine whether unauthorized persons have been engaged in child placement. 23 Ops.Atty.Gen. 35 (1954).

**§ 11180.5. Unlawful activities; assistance in conducting investigations**

At the request of a prosecuting attorney or the Attorney General, any state agency, bureau, or department may assist in conducting an investigation of any unlawful activity which involves matters within or reasonably related to the jurisdiction of such agency, bureau, or department. Such an investigation may be made in cooperation with the prosecuting attorney or the Attorney General.

(Added by Stats.1977, c. 891, p. 2670, § 1.)

## Library References

Administrative Law and Procedure ¶341.  
WESTLAW Topic No. 15A.

C.J.S. Public Administrative Law and Procedure §§ 76, 78.

**§ 11181. Powers in connection with investigations and actions**

In connection with these investigations and actions, the department head may:

- (a) Inspect books and records.
- (b) Hear complaints.
- (c) Administer oaths.
- (d) Certify to all official acts.
- (e) Issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding pertinent or material thereto in any part of the state.

## § 11181

## EXECUTIVE DEPARTMENT Title 2

(f) Divulge evidence of unlawful activity discovered, pursuant to this article, from records or testimony not otherwise privileged or confidential, to the Attorney General or to any prosecuting attorney who has a responsibility for investigating the unlawful activity discovered, or to any governmental agency responsible for enforcing laws related to the unlawful activity discovered. (Added by Stats.1945, c. 111, p. 439, § 3. Amended by Stats.1981, c. 778, p. 3035, § 1; Stats.1987, c. 1453, § 8.)

### Historical and Statutory Notes

The 1981 amendment added subd. (f) relating to divulging evidence of unlawful activity enforcing laws related to the unlawful activity discovered."

The 1987 amendment, in subd. (f), added "or Derivation: Pol.C. § 353, added by Stats. 1921, c. 602, p. 1023, § 1.

### Cross References

Administration of oaths and affirmations, see Code of Civil Procedure § 2093 et seq.

### Code of Regulations References

Depositions, proceedings before the occupational safety and health appeals board, see 8 Cal. Code of Regs. § 372.3.

### Law Review Commentaries

Fair procedure in welfare hearings. David R. Packard (1969) 42 So.Cal.L.R. 600.

### Library References

Administrative Law and Procedure ¶356. Witnesses ¶1.

WESTLAW Topic Nos. 15A, 410.

C.J.S. Public Administrative Law and Procedure § 81.

C.J.S. Witnesses § 2 et seq.

### WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

### Notes of Decisions

**Actions** 6

**Admissibility of evidence** 5

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**Production of documents, generally** 3

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**Validity** 1

Cal.Rptr. 630, 364 P.2d 462, 56 C.2d 524; Fielder v. Berkeley Properties Co. (1972) 99 Cal. Rptr. 791, 23 C.A.3d 30.

#### 2. Investigations

Defendants were subpoenaed pursuant to California attorney general's delegation of authority to conduct investigation into ownership, production, sale and distribution of Alaska natural gas insofar as it affected California to determine existence, nature, and scope of violations of federal and state antitrust laws pertaining to price-fixing, monopolization, division of markets, and restraint of trade, and that clearly was within attorney general's overall authority to investigate matters relating to subjects under his jurisdiction, since possible antitrust violations were subjects under his jurisdiction. Younger v. Jensen (1980) 161 Cal. Rptr. 905, 605 P.2d 813, 26 C.3d 397.

Investigation by head of department of government relating to subjects under jurisdic-

#### 1. Validity

There is no constitutional objection to a system under which heads of departments of government may compel production of evidence for purposes of investigation without instituting formal proceedings against one from whom evidence is sought or filing any charges against him, but department heads cannot compel production of evidence in disregard of privilege against self-incrimination or constitutional provisions prohibiting unreasonable searches and seizures. Brovelli v. Superior Court of Los Angeles County (1961) 15